



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

**I. ADMINISTRATIVE INFORMATION**

Completion Date of Approved Jurisdictional Determination (AJD): 4/15/2021

ORM Number: SWG-2021-00102

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Texas City: Rockport County/Parish/Borough: Aransas

Center Coordinates of Review Area: Latitude 28.033169° North Longitude 97.084822° West

**II. FINDINGS**

**A. Summary:** Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- ☐ The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A
- ☐ There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- ☐ There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- ☒ There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

**B. Rivers and Harbors Act of 1899 Section 10 (§ 10)<sup>2</sup>**

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A.	N/A.

**C. Clean Water Act Section 404**

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): <sup>3</sup>				
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):				
(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

<sup>3</sup> A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



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**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Wetland 1	0.36	acre(s)	(b)(1) Non-adjacent wetland.	It is a wetland that does not abut an (a)(1)-(a)(3) water. It is geographically separated from Copano Bay, the nearest (a)(1)-(a)(3) water, by more than a single natural or man-made barrier.
Wetland 2	0.47	acre(s)	(b)(1) Non-adjacent wetland.	It is a wetland that does not abut an (a)(1)-(a)(3) water. It is geographically separated from Copano Bay, the nearest (a)(1)-(a)(3) water, by more than a single natural or man-made barrier.

**III. SUPPORTING INFORMATION**

**A. Select/enter all resources** that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

☒ Information submitted by, or on behalf of, the applicant/consultant: [Request for Jurisdictional Determination, 12.41-Acre Undeveloped Tract, 202 West Market Street, Rockport, Aransas County, Texas, prepared by Coastal Environments, Inc.; received 5 FEB 2021.](#)

This information is and is not sufficient for purposes of this AJD.

Rationale: [Information provided was verified by reviews of aerial photography, National Wetlands Inventory, Aransas County Soil Survey and LiDAR data.](#)

☐ Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

☒ Photographs: [Aerial: 31 JAN 2020, 29 AUG 2017, 22 FEB 2017, 9 OCT 2016; source: Google Earth](#)

☐ Corps site visit(s) conducted on: [Date\(s\).](#)

☐ Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\).](#)

☒ Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

☒ USDA NRCS Soil Survey: [Aransas County, ref. 18 FEB 2021](#)

☒ USFWS NWI maps: [NWI Rockport, Texas Quad](#)

☒ USGS topographic maps: [1:24,000 Rockport, Texas Quad \(2019\)](#)

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<a href="#">US Geological Survey National Map LIDAR data flown 2018. Elevation in Meters (NAVD88)</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">N/A.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A</a>
<a href="#">Other Sources</a>	<a href="#">N/A.</a>

<sup>4</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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**B. Typical year assessment(s):** Neither of the subject aquatic features are in a contiguous landscape position that would be anticipated to be inundated by flooding by the nearest water of the U.S. (Copano Bay) in a typical year. The determination regarding potential inundation due to flooding by the nearest waterway is based largely upon site specific information and scientific studies regarding flood plain correlation and elevation information for bankfull and floodplains (e.g. study entitled: Hydrogeomorphological differentiation between floodplains and terraces by: Qina Yan, Toshiki Iwasaki, Andrew Stumpf, Patrick Belmont, Gary Parker & Praveen Kuma) as well as review of historic site information (including precipitation data) and aerial photos of the site. The study referenced previously revealed that the 10-year flood plain elevation is located in a slightly higher elevation than bank full elevation in riverine systems. Noting per NWPR regulation, that bank full is anticipated to be located within the area that floods in a typical year and as such jurisdictional. Regulation also states that it does not extend to the boundary of the 100-year flood plain. At this location, there are no waters associated with riverine systems anywhere near the site; and therefore, the wetlands on this site are located above the projected 10-year flood plain elevation for Copano Bay, the nearest jurisdictional water.

In an effort to determine adjacency (as it pertains to hydrologic trends and the subject aquatic resources verified by SWG) an analysis was done using the APT tool, elevation data, aerial imagery & other relevant site-specific information. The APT is a tool that affords the user the capability to look at rainfall at a specific location in the recent past compared to long term precipitation. It provides results for short term precipitation (last 72 hours), the last 3 months (WETS score) and the APT result comparing the last 30 years from numerous nearby gages. It also reports the PDSI (drought index) rainfall & WebWimp water balance/hydrologic seasons information. WETS analysis produces a score between 6 and 18 noting a score of 6-9 is drier than normal, 10-14 is normal & 15-18 is wetter than normal. The APT uses climatic data collected from numerous nearby weather stations and produces the most reliable source for a full 30 years of precipitation data). Historic and recent aerial photographs do not show that the wetlands being inundated by surface water are associated with flooding from any (a)1- (a)3 waters; even when conditions were recorded as wetter than normal. Here are the long term and short term response for the APT test for aeriels.

Date	Prior 72 Hour	PDSI	Season	WETS Score	APT (30yr)
01/30/2020	~ 1"	Moderate Drought	Wet	14	Normal
08/29/2017	8.2"	Severe Wetness	Dry	13	Normal
02/22/2017	~ 1"	Incipient Drought	Wet	9	Drier than Normal
10/09/2016	Trace	Mild Drought	Dry	9	Drier than Normal

In conclusion, we have determined that the small depressional wetlands and ponded areas are non-jurisdictional waters (b)(1) waters. This is based on site-specific information, federal regulation, scientific and flood plain studies, and a review of aeriels. With previously noted exception, these aquatic features do NOT abut an a)1-a)3 water, NOR would they be inundated by flooding of an a)1-a)3 water in a typical year, NOR are they physically separated from an a)1-



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a)3 water by a single natural barrier, NOR are they physically separated by an artificial barrier that allows direct surface hydrologic connection between the aquatic feature(s) in review and an a)1-a)3 water in a typical year.

**C. Additional comments to support AJD:** [N/A](#)

# SWG-2021-00102 Review Area (12.41 ac) 2018 aerial photo

